

ESTTA Tracking number: **ESTTA328521**

Filing date: **01/25/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Qwest Communications International Inc.
Granted to Date of previous extension	01/24/2010
Address	1801 California Street Rm 900 Denver, CO 80202 UNITED STATES
Attorney information	Gretchen L. Testerman Qwest Communications International Inc. 1801 California Street, Suite 900 Denver, CO 80202 UNITED STATES teas@qwest.com, gretchen.testerman@qwest.com

Applicant Information

Application No	77637264	Publication date	07/28/2009
Opposition Filing Date	01/25/2010	Opposition Period Ends	01/24/2010
Applicant	IneoQuest Technologies, Inc. 170 Forbes Blvd Mansfield, MA 02048 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2001/10/01 First Use In Commerce: 2001/10/01
All goods and services in the class are opposed, namely: Computer hardware and computer software for use in network protocol analysis and measuring

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1966694	Application Date	03/06/1995
Registration Date	04/09/1996	Foreign Priority Date	NONE
Word Mark	QWEST		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 038. First use: First Use: 1981/04/28 First Use In Commerce: 1985/10/30 telecommunication services, namely the electronic transmission of voice, data, and messages

U.S. Registration No.	2210992	Application Date	11/04/1997
Registration Date	12/15/1998	Foreign Priority Date	NONE

Word Mark	QWEST
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 038. First use: First Use: 1997/10/06 First Use In Commerce: 1997/10/06 TELECOMMUNICATION SERVICES, NAMELY, LONG DISTANCE TELEPHONE SERVICES, AND ELECTRONIC TRANSMISSION OF VOICE, DATA AND MESSAGES

U.S. Registration No.	2727556	Application Date	03/24/2000
Registration Date	06/17/2003	Foreign Priority Date	NONE

Word Mark	QWEST
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 COMPUTER SOFTWARE, NAMELY ELECTRONIC MAIL SOFTWARE FOR SENDING, RECEIVING AND MANAGING ELECTRONIC MAIL MESSAGES

U.S. Application No.	78124398	Application Date	04/26/2002
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	QWEST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2000/06/30 First Use In Commerce: 2000/06/30 House mark for a full line of telecommunication equipment and telecommunications software; and magnetically encoded prepaid telephone calling cards and credit cards		

U.S. Registration No.	2650202	Application Date	07/14/2000
Registration Date	11/12/2002	Foreign Priority Date	NONE
Word Mark	QWEST TOTAL CARE		
Design Mark	<p style="text-align: center;">QWEST TOTAL CARE</p>		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 TELECOMMUNICATION AND COMPUTER CONSULTATION AND MANAGEMENT SERVICES; NAMELY, DESIGNING, INTEGRATING, OPERATING, MAINTAINING AND MONITORING VOICE, DATA, AND VIDEO COMMUNICATIONS NETWORKS		

U.S. Application No.	78153602	Application Date	08/13/2002
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	QWEST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/06/00 First Use In Commerce: 2000/06/00 HOUSE MARK FOR A FULL LINE OF COMPUTER CONSULTING SERVICES; HOUSE MARK FOR A FULL LINE OF INTERNET SERVICES, NAMELY, SOFTWARE APPLICATION MANAGEMENT SERVICES FOR BUSINESSES IN THE NATURE OF DESIGNING, INTEGRATING, MAINTAINING AND MONITORING OF SOFTWARE APPLICATIONS FOR OTHERS; DESIGNING AND IMPLEMENTING WEB SITES FOR OTHERS AND HOSTING THE WEBSITES OF OTHERS ON THE INTERNET; AND PROVIDING CUSTOMIZED ONLINE WEB PAGES FEATURING USER-DEFINED INFORMATION WHICH INCLUDES SEARCH ENGINES AND ONLINE WEB LINKS TO OTHER WEB SITES		

Attachments	75384354#TMSN.gif (1 page)(bytes) 76008697#TMSN.gif (1 page)(bytes) 76089093#TMSN.gif (1 page)(bytes) IQ Ineoquest Notice of Opposition 012510.pdf (24 pages)(740483 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/glt/
Name	Gretchen L. Testerman
Date	01/25/2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 77637264
Published in the Official Gazette on July 28, 2009

QWEST COMMUNICATIONS
INTERNATIONAL INC.,
1801 California Street
Denver, CO 80202

Opposer,

V.

INEOQUEST TECHNOLOGIES
170 Forbes Blvd.
Mansfield, MA 02048

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Qwest Communications International Inc. (“Opposer”), a corporation duly organized and existing under the laws of the state of Delaware, having its headquarters at 1801 California Street, Denver, Colorado, believes that it will be damaged by registration of the mark shown in U.S. Trademark Application Serial No. 77637264 (“the Application”), and hereby opposes the same, including all of the goods as set forth in the Application. As grounds for opposition, Opposer alleges:

1. On March 1995, Opposer filed an application to register the mark “QWEST” for telecommunications services. On April 1996, the mark “QWEST” registered as U.S. Trademark Reg. No. 1,966,694 for “telecommunications services, namely the electronic transmission of voice, data and messages.” Proof of such registration is attached as Exhibit A. Opposer is the owner of this registration and first used the mark at least as early as April 28, 1981. This registration is valid, subsisting, incontestable and in full force and effect.

2. On November 4, 1997, Opposer filed an application to register the mark “QWEST” for telecommunications services. On December 15, 1998, the mark “QWEST”

registered as U.S. Trademark. Registration No. 2,210,992 for “telecommunications services, namely long distance telephone services and electronic transmission of voice, data and messages.” Proof of such registration is attached as Exhibit B. Opposer is the owner of this registration and first used the mark at least as early October 6, 1997. This registration is valid, subsisting, incontestable and in full force and effect.

3. On March 24, 2000, Opposer filed an application to register the mark “QWEST” for computer software. On June 17, 2003, the mark “QWEST” registered as U.S. Trademark Reg. No. 2,727,556 for “computer software, namely electronic mail software for sending, receiving and managing electronic mail messages.” Proof of such registration is attached as Exhibit C. Opposer is the owner of this registration and used the mark since at least as early as August 30, 2000. This registration is valid, subsisting, incontestable and in full force and effect.

4. On April 26, 2002, Opposer filed Application Serial No. 78124398 to register the mark “QWEST” for “house mark for a full line of telecommunication products and parts therefor and telecommunication software; and magnetically encoded telephone calling cards and credit cards,” claiming a first use date of at least as early as June 30, 2000. Opposer owns this application, a copy of which is attached as Exhibit D.

5. On July 14, 2000, Opposer filed Application Serial No. 76089093 to register the mark “QWEST TOTAL CARE.” On November 12, 2002, the mark registered for “telecommunication and computer consultation and management services; namely, designing, integrating, operating, maintaining and monitoring voice, data, and video communications networks.” Proof of such registration is attached as Exhibit E. Opposer is the owner of this registration and first used the mark at least as early as August 31, 2000. This registration is valid, subsisting, incontestable and in full force and effect.

6. On August 13, 2002, Opposer filed Application Serial No. 78153602 to register the mark “QWEST” for “house mark for a full line of computer consulting services; house mark for a full line of internet services, namely, software application management services for

businesses in the nature of designing, integrating, maintaining and monitoring of software applications for others; designing and implementing web sites for others and hosting the websites of others on the internet; and providing customized online web pages featuring user-defined information which includes search engines and online web links to other web sites,” claiming a first use date of June 30, 2000. Opposer owns this application, a copy of which is attached as Exhibit F. The marks in paragraphs 1-6 shall be collectively referred to as the “QWEST Marks.”

7. For years prior to the filing and claimed first use date of the Application herein opposed, Opposer, through its affiliated companies and their predecessors in interest (including without limitation, Qwest Corporation and Qwest Communications Company LLC (the “Qwest Affiliates”)), has used the designation QWEST as a trademark in connection with telecommunication and telecommunications-related services and products.

8. Opposer, through its affiliated companies, sells its goods and services in all 50 states.

9. Opposer invests, on average, hundreds of millions of dollars per year in advertising and marketing its services and its advertisements have won national recognition.

10. By virtue of such use, Opposer has established valuable goodwill in the marks and the public has come to associate the QWEST Marks with Opposer and to know “QWEST” as an indication of products and services that emanate from Opposer.

11. Opposer’s QWEST Marks are famous and distinctive marks well-known to purchasers, and acquired such fame prior to the filing date and claimed first use date of the Application.

12. Opposer’s QWEST Marks predate, and Opposer began use of its QWEST Marks in commerce, prior to the filing date and claimed first use date of the Application herein opposed.

13. Applicant filed U.S. Trademark Application Serial No. 77637264, which is the subject of this Opposition, on December 19, 2008, for the mark “IQ INEOQUEST” for

“computer hardware and computer software for use in network protocol analysis and measuring” in Class 9 claiming a first use date of October 1, 2001.

14. The goods identified in the Application are substantially similar or related to Opposer’s goods and services sold under its QWEST Marks.

15. The mark shown in the application contains the element “QUEST” which is virtually identical in sight and sound to Opposer’s QWEST Marks.

16. Based on information and belief, Applicant emphasizes the “QUEST” portion of its mark by capitalizing the “Q” in its mark.

17. Registration of the mark shown in the Application is inconsistent with Opposer’s prior rights in the QWEST Marks and Opposer and the goodwill and reputation of the QWEST Marks will be damaged by registration of the Application.

18. Opposer will be damaged by registration of the mark shown in the Application because the mark has and/or is likely to cause dilution of the distinctive quality of Opposer’s famous QWEST Marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

19. Registration of the mark in the Application and use of the Applicant’s mark are likely to cause confusion, or to cause mistake, or to deceive, particularly as to the source or origin of the goods on which Applicant uses its mark, to induce consumers to believe that the goods of Applicant are those of Opposer, or are endorsed by, or are in some way affiliated or associated with Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

Wherefore, Opposer prays that this Opposition be sustained and that registration of U.S. Trademark Application Serial No. 77637264 for “IQ INEOQUEST” be denied.

Respectfully submitted,

Date: January 25, 2010

Qwest Communications International Inc.

By: 
Gretchen L. Testerman
Senior Attorney
1801 California Street Suite 900
Denver, Colorado 80202
Tel: (303) 383-6609

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of January, 2010, I served the foregoing Notice of Opposition on counsel for the Applicant by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

Elizabeth R. Burkhard
Holland & Knight LLP
11th Floor
10 St. James Avenue
Boston MA 02116

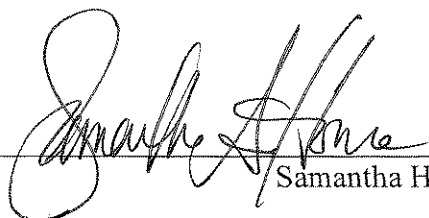

Samantha House

EXHIBIT A



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Typed Drawing

Word Mark	QWEST
Goods and Services	IC 038. US 100 101 104. G & S: telecommunication services, namely the electronic transmission of voice, data, and messages. FIRST USE: 19810428. FIRST USE IN COMMERCE: 19851030
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74656899
Filing Date	March 6, 1995
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	January 16, 1996
Registration Number	1966694
Registration Date	April 9, 1996
Owner	(REGISTRANT) Qwest Communications Corporation CORPORATION DELAWARE 555 Seventeenth Street Suite 1000 Denver COLORADO 80202 (LAST LISTED OWNER) QWEST COMMUNICATIONS INTERNATIONAL INC CORPORATION BY ASSIGNMENT DELAWARE 1801 CALIFORNIA ST. DENVER COLORADO 80202
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Christine P. Searls, Gretchen L. Prochaska, David R. Halvorson
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 8 (6-YR). SECTION 8(10-YR) 20050907.
Renewal	1ST RENEWAL 20050907
Live/Dead Indicator	LIVE

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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: 74656899

Filing Dt: 03/06/1995

Reg #: 1966694

Reg. Dt: 04/09/1996

Registrant: Qwest Communications Corporation

Mark: QWEST

Assignment: 1

Reel/Frame: 1789/0433

Received: 09/18/1998

Recorded: 09/01/1998

Pages: 4

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: QWEST COMMUNICATIONS CORPORATION

Exec Dt: 08/27/1998

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: QWEST COMMUNICATIONS INTERNATIONAL, INC.

STE. 1000

555 SEVENTEENTH STREET

DENVER, COLORADO 80202

Correspondent: ARENT FOX KINTNER PLOTKIN & KAHN

SHELDON H. KLEIN, ESQ.

1050 CONNECTICUT AVENUE, N.W.

WASHINGTON, DC 20036

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Qwest

Word Mark	QWEST
Goods and Services	IC 038. US 100 101 104. G & S: TELECOMMUNICATION SERVICES, NAMELY, LONG DISTANCE TELEPHONE SERVICES, AND ELECTRONIC TRANSMISSION OF VOICE, DATA AND MESSAGES. FIRST USE: 19971006. FIRST USE IN COMMERCE: 19971006
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	75384354
Filing Date	November 4, 1997
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	September 22, 1998
Registration Number	2210992
Registration Date	December 15, 1998
Owner	(REGISTRANT) Qwest Communications International Inc. CORPORATION DELAWARE 1801 CALIFORNIA ST. DENVER COLORADO 80202
Attorney of Record	Christine P. Searls
Prior Registrations	1966694;1979485;AND OTHERS
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20071222.
Renewal	1ST RENEWAL 20071222
Live/Dead Indicator	LIVE



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Word Mark	QWEST
Goods and Services	IC 009. US 021 023 026 036 038. G & S: COMPUTER SOFTWARE, NAMELY ELECTRONIC MAIL SOFTWARE FOR SENDING, RECEIVING AND MANAGING ELECTRONIC MAIL MESSAGES. FIRST USE: 20000800. FIRST USE IN COMMERCE: 20000800
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76008697
Filing Date	March 24, 2000
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	February 12, 2002
Registration Number	2727556
Registration Date	June 17, 2003
Owner	(REGISTRANT) Qwest Communications International Inc. CORPORATION DELAWARE 1801 California Street Denver COLORADO 80202
Attorney of Record	Christine P. Searls, Gretchen L. Prochaska Testerman
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE

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Typed Drawing

Word Mark QWEST
Goods and Services IC 009. US 021 023 026 036 038. G & S: HOUSE MARK FOR A FULL LINE OF TELECOMMUNICATION PRODUCTS AND PARTS THEREFOR AND TELECOMMUNICATION SOFTWARE; AND MAGNETICALLY ENCODED TELEPHONE CALLING CARDS AND CREDIT CARDS. FIRST USE: 20000630. FIRST USE IN COMMERCE: 20000630

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78124398

Filing Date April 26, 2002

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Qwest Communications International Inc. CORPORATION DELAWARE 1801 California Street Denver COLORADO 80202

Attorney of Record Christine P. Searls, Gretchen L. Prochaska, David R. Halvorson

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Word Mark	QWEST TOTAL CARE
Goods and Services	IC 042. US 100 101. G & S: TELECOMMUNICATION AND COMPUTER CONSULTATION AND MANAGEMENT SERVICES; NAMELY, DESIGNING, INTEGRATING, OPERATING, MAINTAINING AND MONITORING VOICE, DATA, AND VIDEO COMMUNICATIONS NETWORKS. FIRST USE: 20000800. FIRST USE IN COMMERCE: 20000800
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76089093
Filing Date	July 14, 2000
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	June 5, 2001
Registration Number	2650202
Registration Date	November 12, 2002
Owner	(REGISTRANT) QWEST COMMUNICATIONS INTERNATIONAL INC. CORPORATION DELAWARE 1801 California St. Denver COLORADO 80202
Attorney of Record	Christine P. Searls, Gretchen L. Testerman, Mollybeth Kocalski
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 8 (6-YR).
Live/Dead Indicator	LIVE

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Word Mark QWEST

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